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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 CONOR JAMES HARRIS,

11 Petitioner,

12 vs.

13 RENEE BAKER, *et al.*,

14 Respondents.
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Case No. 3:14-cv-00516-RCJ-WGC

ORDER

17 Following upon the notice (#8) of appearance by petitioner's counsel in this habeas matter,

18 **IT IS ORDERED** that the Federal Public Defender's Office is appointed as counsel for
19 petitioner pursuant to 18 U.S.C. § 3006A(a)(2)(B), with Melanie Gavis, Esq., appearing as petitioner's
20 counsel of record.

21 **IT FURTHER IS ORDERED** that petitioner shall have until up to and including **one hundred**
22 **twenty (120) days** from entry of this order within which to file an amended petition and/or seek other
23 appropriate relief. Neither the foregoing deadline nor any extension thereof signifies or will signify any
24 implied finding as to the expiration of the federal limitation period and/or of a basis for tolling during
25 the time period established. Petitioner at all times remains responsible for calculating the running of
26 the federal limitation period and timely asserting claims, without regard to any deadlines established
27 or extensions granted herein. That is, by setting a deadline to amend the petition and/or by granting any
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1 extension thereof, the court makes no finding or representation that the petition, any amendments
2 thereto, and/or any claims contained therein are not subject to dismissal as untimely. *See Sossa v. Diaz*,
3 729 F.3d 1225, 1235 (9th Cir. 2013).

4 **IT FURTHER IS ORDERED** that respondents shall file a response to the amended petition,
5 including potentially by motion to dismiss, within sixty (60) days of service of the amended petition,
6 with any requests for relief by petitioner by motion otherwise being subject to the normal briefing
7 schedule under the local rules. **Any response filed shall comply with the remaining provisions**
8 **below, which are entered pursuant to Habeas Rule 4.**

9 **IT FURTHER IS ORDERED** that any procedural defenses raised by respondents in this case
10 shall be raised together in a single consolidated motion to dismiss. In other words, the court does not
11 wish to address any procedural defenses raised herein either in *seriatum* fashion in multiple successive
12 motions to dismiss or embedded in the answer. Procedural defenses omitted from such motion to
13 dismiss will be subject to potential waiver. Respondents shall not file a response in this case that
14 consolidates their procedural defenses, if any, with their response on the merits, except pursuant to 28
15 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents do seek
16 dismissal of unexhausted claims under § 2254(b)(2): (a) they shall do so within the single motion to
17 dismiss **not** in the answer; and (b) they shall specifically direct their argument to the standard for
18 dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In
19 short, no procedural defenses, including exhaustion, shall be included with the merits in an answer. All
20 procedural defenses, including exhaustion, instead must be raised by motion to dismiss.

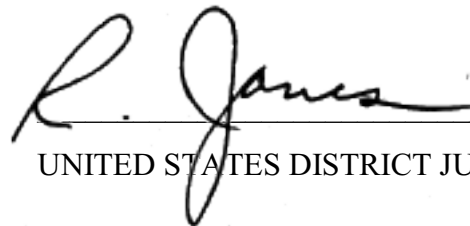
21 **IT FURTHER IS ORDERED** that, in any answer filed on the merits, respondents shall
22 specifically cite to and address the applicable state court written decision and state court record
23 materials, if any, regarding each claim within the response as to that claim.

24 **IT FURTHER IS ORDERED** that petitioner shall have **thirty (30) days** from service of the
25 answer, motion to dismiss, or other response to file a reply or opposition, with any other requests for
26 relief by respondents by motion otherwise being subject to the normal briefing schedule under the local
27 rules.
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1 **IT FURTHER IS ORDERED** that any additional state court record exhibits filed herein by
2 either petitioner or respondents shall be filed with a separate index of exhibits identifying the exhibits
3 by number. The CM/ECF attachments that are filed further shall be identified by the number or
4 numbers of the exhibits in the attachment.

5 **IT IS FURTHER ORDERED** that the parties **SHALL SEND** courtesy (paper) copies of all
6 exhibits presented in support of the amended petition and the response to the amended petition to the
7 **Reno** Division of this court. Courtesy copies shall be mailed to the Clerk of Court, 400 S. Virginia St.,
8 Reno, NV, 89501, and directed to the attention of "Staff Attorney" on the outside of the mailing address
9 label. Additionally, in the future, all parties shall provide courtesy copies of any additional exhibits
10 submitted to the court in this case, in the manner described above.

11 Dated this 19th day of February, 2015.
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17 UNITED STATES DISTRICT JUDGE
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